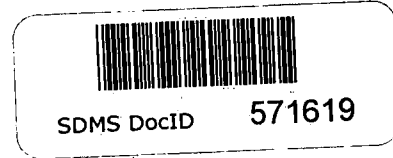




**STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION**



STATE OF CONNECTICUT
V.
UNIVERSITY OF CONNECTICUT

CONSENT ORDER

- A. With the agreement of The University of Connecticut, ("the Respondent"), the Commissioner of Environmental Protection ("the Commissioner") finds:
1. Respondent is a public university which owns and has operated a solid waste disposal area ("the landfill") identified on Map No. 8, Lot No. 16 and Map No. 9, Lot No. 15 in the Town of Mansfield Tax Assessor's office, and which is located on North Eagleville Road, Mansfield, Connecticut ("the site") under the terms and conditions of Solid Waste Permit No. 078-1-E-O, issued by the Commissioner on October 31, 1986, and also owns and had operated a former disposal site in the vicinity of what is now designated as parking lot F ("the F Lot site").
 2. Respondent has not filed an application for, nor has the Commissioner issued, a permit pursuant to Section 22a-430 of the Connecticut General Statutes ("CGS") for the discharge of leachate from a solid waste disposal area to the ground water at the site.
 3. Respondent's former operation of the landfill and the F Lot site at the site has resulted in a discharge of water, substance or materials, including but not limited to leachate, into the waters of the state.
 4. By virtue of the above, Respondent has created and is maintaining a discharge to the waters of the state without a permit and has created or is maintaining a facility or condition which reasonably can be expected to create a source of pollution to the waters of the State.
 5. Potable drinking water wells near the site may be at risk of pollution from Respondent's activities at the site.
 6. By virtue of the above, pollution of the ground waters has occurred or can reasonably be expected to occur, the extent of pollution creates or can reasonably be expected to create an unacceptable risk of injury to the health or safety of persons using such waters as a public or private source of water for

drinking or other personal or domestic uses, and Respondent is responsible for such pollution.

7. By agreeing to the issuance of this consent order, Respondent makes no admission of fact or law with respect to the matters addressed herein, other than the facts asserted in paragraph A.1.
- B. With the agreement of Respondent, the Commissioner, acting under Sections 22a-5a, 22a-6, 22a-208, 22a-225, 22a-424, 22a-425, 22a-427, 22a-430, 22a-431, 22a-432 and 22a-471 of the Connecticut General Statutes, orders Respondent as follows:
 1. Respondent shall maintain the landfill in compliance with all terms of Solid Waste Permit No. 078-1-E-O and shall maintain the landfill and the F Lot site in compliance with the requirements of this consent order.
 2. Following final closure of the landfill, Respondent shall not use nor seek to use the site of the landfill or the F Lot site for any future waste disposal.
 3.
 - a. On or before fourteen (14) days from the date of issuance of this consent order, Respondent shall submit for the Commissioner's review and approval a final closure plan for the landfill. Such plan shall be consistent with the Regulations of Connecticut State Agencies ("RCSA") Section 22a-209-13 and shall identify the need for and detail the scope of (1) landfill regrading; (2) installation of final cover where needed; (3) establishment of vegetative cover; (4) elimination of leachate seeps; (5) post closure maintenance; (6) an interim program for monitoring of ground water and surface water quality until the program required pursuant to paragraph B.4.e of this order is implemented; and (7) a schedule for implementation of the work. Such plan shall provide for completion of landfill regrading, installation of final cover, and establishment of vegetative cover as soon as possible, but in no event later than October 31, 1998.
 - b. No later than ninety (90) days after site closure, Respondent shall (1) submit as-built plans in accordance with RCSA Section 22a-209-13(f), (2) file a description of the disposal area on the land records of the Town of Mansfield in accordance with RCSA Section 22a-209-13(g), such description shall include notice that any post-closure use of the site requires approval of the Commissioner in accordance with RCSA section 22a-209-13(d).

4. a. On or before thirty (30) days after the date of issuance of this consent order, Respondent shall retain one or more qualified consultants acceptable to the Commissioner to prepare the documents and implement or oversee the actions required by this consent order and shall, by that date, notify the Commissioner in writing of the identity of such consultants. Respondent shall retain one or more qualified consultants acceptable to the Commissioner until this consent order is fully complied with, and, within ten days after retaining any consultant other than one originally identified under this paragraph, Respondent shall notify the Commissioner in writing of the identity of such other consultant. The consultant(s) retained to prepare the closure plan pursuant to paragraph B.3 of this order shall be a professional engineer licensed to practice in Connecticut, acceptable to the Commissioner. The consultants(s) retained to perform the work required pursuant to paragraph B.4 of this consent order shall be a qualified hydrogeologist with education and experience in characterizing ground water flow and contaminant transport in fractured bedrock settings, acceptable to the Commissioner. Respondent shall submit to the Commissioner a description of a consultant's education, experience and training which is relevant to the work required by this consent order within ten days after a request for such a description. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable.
- b. On or before ninety (90) days after the date of issuance of this consent order, Respondent shall submit for the Commissioner's review and written approval a scope of study for an investigation of the landfill, former chemical pits, and the F Lot site, and the potential impact of the landfill, chemical pits, and the F Lot site on human health and the environment both on-site and off-site, including but not limited to the existing and potential extent and degree of soil, ground water and surface water pollution. Such scope of study shall include at least the proposed equipment and methods to be used for characterizing the hydraulic properties of the fractured bedrock aquifer; the proposed equipment and methods to be used for identifying which bedrock fractures or sets of fractures are hydraulically significant in transmitting ground water flow; the proposed equipment and methods to be used for assessing whether or not nonaqueous phase liquids are present in the bedrock, associated with releases from the landfill and chemical pits; the proposed location and depths of ground water monitor wells and soil and surface water sampling; a proposed sampling and analytical program including at least the parameters to be tested; proposed sampling and analytical methods, and

quality assurance and quality control procedures; and a schedule for conducting the investigation.

- c. If the investigation carried out under an approved scope of study does not fully characterize the extent and degree of soil, surface water and ground water pollution to the satisfaction of the Commissioner, additional investigation shall be performed in accordance with a supplemental plan and schedule approved in writing by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule shall be submitted for the Commissioner's review and written approval on or before thirty days after notice from the Commissioner that they are required.
- d. Respondent shall perform the investigation and other actions specified in the approved scope of study and in any approved supplemental plan(s) in accordance with the approved schedule(s). Respondent shall notify the Commissioner of the initiation of a new phase of field work, as identified in the scope of study, at least five full business days prior to commencement of such field work.
- e. Except as may be provided in the investigation schedule approved by the Commissioner, on or before one hundred eighty (180) days after the commencement of the investigation, Respondent shall submit for the Commissioner's review and written approval a preliminary report on the investigation. Such report shall include a proposal for supplemental investigation necessary to determine the existing and potential extent and degree of surface water and ground water pollution, and a schedule for implementing such investigation. Thirty days after completion of the supplemental investigation, Respondent shall submit for the Commissioner's review and written approval a comprehensive and thorough report which describes in detail the investigation performed; defines the existing and potential extent and degree of soil, surface water and ground water pollution which is on, is emanating from or has emanated from the site; and evaluates the alternatives for remedial actions to abate such pollution; states in detail the proposed schedule for performing each alternative, and lists all permits and approvals required for each alternative, including but not limited to any permits required under sections 22a-32, 22a-42a, 22a-342, 22a-361, 22a-368 or 22a-430 of the Connecticut General Statutes; proposes a preferred alternative with supporting justification therefor; and proposes a detailed program and schedule to perform the preferred remedial actions, including but not

limited to a schedule for applying for and obtaining all permits and approvals required for such remedial actions. Such report shall also include but not be limited to a soil, surface water and ground water monitoring program to determine the degree to which the approved remedial actions have been effective, and a schedule for performing the approved monitoring program.

- f. Unless another deadline is specified in writing by the Commissioner, on or before sixty days after approval of the report described in the preceding paragraph, Respondent shall (1) submit for the Commissioner's review and written approval contract plans and specifications for the approved remedial actions, a revised list of all permits and approvals required for such actions, and a revised schedule for applying for and obtaining such permits and approvals, and (2) submit applications for all permits and approvals required under section 22a-430 of the Connecticut General Statutes for such actions. Respondent shall use best efforts to obtain all required permits and approvals.
- g. Respondent shall perform the approved remedial actions in accordance with the approved schedule. Within fifteen days after completing such actions, the Respondent shall certify to the Commissioner in writing that the actions have been completed as approved.
- h. Respondent shall perform the approved monitoring program to determine the effectiveness of the remedial actions in accordance with the approved schedule(s). If the approved remedial actions do not result in the prevention and abatement of soil, surface water and ground water pollution to the satisfaction of the Commissioner, additional remedial actions and measures for monitoring and reporting on the effectiveness of those actions shall be performed in accordance with a supplemental plan and schedule approved in writing by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule shall be submitted for the Commissioner's review and written approval on or before thirty days after notice from the Commissioner that they are required.
- i. On a schedule established by the Commissioner or, if no such schedule is established, on a quarterly basis beginning no later than ninety days after initiation of the approved remedial actions or, as applicable, supplemental remedial actions, Respondent shall submit for the Commissioner's review and written approval a report describing the results to date of the

monitoring program to determine the effectiveness of the remedial actions.

- j. Respondent may request that the Commissioner approve, in writing, revisions to any document approved hereunder in order to make such document consistent with law or for any other appropriate reason.

5. Provision of potable water supplies. Respondent shall provide a supply of potable water to those properties which the Commissioner determines to be polluted or which can reasonably be expected to become polluted, and the Commissioner determines that the pollution is attributable to the Respondent's activities. For any such properties, potable water shall be provided in accordance with the requirements contained in paragraphs B.5.a and B.5.b below.

- a. Respondent shall provide short-term potable drinking water in accordance with the following:

- (1) Respondent shall provide one (1) gallon per person per day of bottled water to the persons served by wells which have been polluted, or which can reasonably be expected to become polluted, within 24 hours after notification that it is required is received from the Commissioner. Bottled water shall be delivered on a regular basis by a company licensed to bottle water by the State of Connecticut until a long-term supply of potable water is provided pursuant to paragraph B.5.b of this consent order.
- (2) On or before five (5) days after Respondent begins to provide potable drinking water pursuant to paragraphs B.5.a.(1) of this consent order, Respondent shall submit written certification to the Commissioner that provision of potable drinking water has begun as required.
- (3) In accordance with attachment A to this consent order, within thirty (30) days from the date of issuance of this consent order, Respondent shall provide granular activated carbon (GAC) filter treatment systems and any pre-treatment system(s) which the Commissioner determines are necessary for each affected property. Respondent shall install, monitor, and maintain such GAC treatment systems in accordance with attachment A to this

consent order or until the long term supply of potable drinking water is provided in accordance with paragraph B.5.b of this consent order.

- b. Respondent shall provide long-term potable drinking water to the properties required by this consent order in accordance with the following:
 - (1) On or before sixty (60) days after the Commissioner notifies the Respondent of properties for which the water supply wells are polluted or which can reasonably be expected to become polluted, Respondent shall submit for the review and written approval of the Commissioner a report regarding the extension of public water, installation of service connections, and abandonment of wells. The report shall contain a schedule for construction of the extension of public water, installation of service connections, and abandonment of wells, and a schedule for the submission of the following items to the Commissioner:
 - (i) Contract plans and specifications for the extension of public water, installation of service connections, and abandonment of wells approved by the Commissioner pursuant to this paragraph.
 - (ii) Verification that a contract for the installation and construction of the facilities approved by the Commissioner has been awarded.
 - (iii) Verification that such approved facilities have been placed in operation.
 - (2) Respondent shall carry out the actions specified in the approved report in accordance with the approved schedule.
- c. On or before sixty (60) days after the date of issuance of this consent order, Respondent shall provide a long-term potable drinking water supply, by extending public water to the property located at 80 Hunting Lodge Road.
 - (1) On or before fifteen (15) days after the date of connection to public water, Respondent shall submit to the Commissioner for his review and written approval, a proposal to compensate the owner of the

property located at 80 Hunting Lodge Road for the first ten (10) years of the increased cost of obtaining potable drinking water from a public source of supply. On or before thirty days after approval of such plan, Respondent shall implement the approved plan.

6. Test results.

- a. Respondent shall assure that all laboratory reports of results of any water supply well testing required by this consent order are submitted in writing to the affected property owner and occupants, the Commissioner of Environmental Protection, the Commissioner of Public Health and the Director of the Eastern Highlands Health District within thirty (30) days after taking a sample or within five days of receipt of such results by the Respondent, whichever is sooner.
- b. Respondent shall assure that all results of any water supply well testing required by this consent order are submitted in writing to the affected property owner and occupants with a statement identifying which, if any, parameters exceed the then current action level for any volatile organic compound or leachate indicator parameter. A copy of the statement submitted to the property owner and occupants shall be sent to the Commissioner within five (5) days of the date it is mailed to the property owner and occupants.

7. Standard for potable drinking water. All potable drinking water which is provided pursuant to this consent order shall be of a quality which meets all standards specified in sections 19-13-B101 and 19-13-B102 of the Regulations of Connecticut State Agencies and which the Commissioner of Public Health has not determined "creates an unacceptable risk of injury to the health or safety of persons using such water as a public or private source of water for drinking or other personal and domestic uses.

8. Progress reports. Beginning July 1, 1998, on or before the last day of each September, December, March, and June following issuance of this consent order, and continuing until all actions required by this consent order have been completed as approved and to the satisfaction of the Commissioner, Respondent shall submit a progress report to the Commissioner describing the actions which Respondent has taken to comply with this consent order to date.

9. Penalty for past violations. Nothing in this consent order shall in any way affect the Commissioner's ability to seek penalties through administrative or judicial action from the Respondent for any past, present or future violations of law, including those violations referenced in this consent order. The Respondent waives any right it may have to claim that any action by the Commissioner to collect penalties for past violations, including violations which are the subject of this consent order, is barred due to the absence of an assessment of a civil penalty in this consent order.

10. Stipulated future penalties.

- a. If, within two years after the date of issuance of this consent order, Respondent fails to comply with any requirement of this consent order or of any document approved hereunder, or fails to comply on time with any such requirement, Respondent shall pay the following civil penalties:

For each of the first ten days following the date compliance was required, two thousand dollars (\$2,000);

For each of the next ten days thereafter, four thousand dollars (\$4,000);

For each day thereafter, the sum to be paid shall increase by one thousand dollars (\$1,000) until the maximum civil penalty specified in the Connecticut General Statutes as amended is reached, which sum shall be paid every day thereafter until compliance is achieved.

- b. Payment of the amounts specified in subparagraph (a) of this paragraph shall be submitted to the Commissioner within thirty days of the date that Respondent became aware or should reasonably have become aware of such violation. Failure to pay such penalties within thirty days shall not result in additional penalties under subparagraph (a) of this paragraph, provided that Respondent shall pay interest at a rate of one and two-thirds per cent per month or part thereof on any penalty which is not paid when due, beginning on the first day on which the penalty was past due.
- c. In an action by the Commissioner to enforce the civil penalty provisions of this paragraph, the Commissioner need prove only that Respondent failed to comply with a requirement of this consent order or of any document approved hereunder within the time specified. Respondent waives the opportunity to contest the amount of any penalty specified herein or the justification for its imposition, except that Respondent may prove

compliance or that compliance was impossible due only to an event beyond the reasonable control of Respondent which was unforeseeable and the results of which could not have been avoided or repaired or caused to be avoided or repaired by Respondent or an agent, employee or representative of Respondent in order to prevent the noncompliance. Increased cost shall not constitute such impossibility. Respondent shall have the burden of going forward and of persuasion with respect to any allegation of impossibility. If Respondent claims that compliance was impossible due to an event specified in this paragraph, in addition to the notice required by paragraph 17 Respondent shall also submit a written notice to the Commissioner within ten days of becoming aware of such event stating the time of the event, the reasons that the event resulted in the noncompliance, and all activities which the Respondent and its agents, employees and representatives took to avoid or repair the results of the event and prevent the noncompliance. Failure of Respondent to submit this information to the Commissioner within ten days of becoming aware of the event shall render the provisions of this paragraph regarding allowance of claims of impossibility of no force and effect as to the particular incident involved.

11. Payment of penalties. Payment of penalties under this consent order shall be mailed or personally delivered to the Department of Environmental Protection, Bureau of Administration Accounts Receivable Office, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to the Connecticut Department of Environmental Protection. The check shall state on its face, "Water management civil penalty – Permitting, Enforcement & Remediation Division, Consent Order No. SRD-101." A copy of the check and any transmittal letter shall also be sent to D. James Fitting in the Bureau of Water Management at the same address, unless otherwise directed in writing.
12. Full compliance. Respondent shall not be considered in full compliance with this consent order until all actions required by this consent order have been completed as approved and to the satisfaction of the Commissioner.
13. Sampling and sample analyses. All sample analyses which are required by this consent order and all reporting of such sample analyses shall be done by a laboratory certified by the Connecticut Department of Public Health Services for such analyses. All sampling and sample analyses performed under this order shall be performed in accordance with the scope of studies and plans approved by the Commissioner under this consent order. All sampling and sample analyses performed under this order shall be performed in accordance with

procedures specified or approved in writing by the Commissioner, or, if no such procedures have been specified or approved, in accordance with 40 CFR Part 136. Unless otherwise specified by the Commissioner in writing, the value of each parameter shall be reported to the analytical detection limit, as defined in Section 22a-133k-1 of the Regulations of Connecticut State Agencies.

14. Approvals. Respondent shall use best efforts to submit to the Commissioner all documents required by this consent order in a complete and approvable form. If the Commissioner notifies the Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within thirty days of the Commissioner's notice of deficiencies. In approving any document or other action under this consent order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this consent order. Nothing in this paragraph shall excuse noncompliance or delay.
15. Definitions. As used in this consent order, "Commissioner" means the Commissioner or an agent of the Commissioner.
16. Dates. The date of submission to the Commissioner of any document required by this consent order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this consent order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is personally delivered or the date three days after it is mailed by the Commissioner, whichever is earlier. Except as otherwise specified in this consent order, the word "day" as used in this consent order means calendar day. Any document or action which is required by this consent order to be submitted or performed by a date which falls on a Saturday, Sunday or Connecticut or federal holiday shall be submitted or performed on or before the next day which is not a Saturday, Sunday, or Connecticut or federal holiday.
17. Notification of noncompliance. In the event that Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this consent order or of any document required hereunder, Respondent shall immediately notify the Commissioner and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. In so notifying the

Commissioner, Respondent shall state in writing the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondent shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.

Failure to comply with any provision of this consent order solely as such provision relates to investigation and remedial action on property which is not owned by Respondent shall be excused if Respondent verifies to the satisfaction of the Commissioner that, despite its good faith efforts, Respondent is unable to obtain the permission of the owner of such property to conduct such investigation and remedial action. Compliance shall be excused under this paragraph only to the extent to which permission is denied and only until such time as permission is obtained. Respondent shall continue to use best efforts to obtain such permission, and shall submit a report to the Commissioner at least once every ninety days which details the efforts which Respondent has taken to obtain such permission.

18. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this consent order shall be signed by the Respondent and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachments may be punishable as a criminal offense."
19. Noncompliance. This consent order is a final order of the Commissioner with respect to the matters addressed herein, and is nonappealable and immediately enforceable. Failure to comply with this consent order may subject Respondent to an injunction and penalties under Chapters 439 and 446k of the Connecticut General Statutes.
20. False statements. Any false statement in any information submitted pursuant to this consent order may be punishable as a criminal offense under Section

22a-438 of the Connecticut General Statutes or, in accordance with Section 22a-6, under Section 53a-157b of the Connecticut General Statutes.

21. Liability of Respondent and others. Respondent's obligations under this consent order shall not be affected by the passage of title to any property to any other person or municipality.
22. Commissioner's powers. Nothing in this consent order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for violations of law, including but not limited to violations of any permit issued by the Commissioner. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this consent order have not successfully provided potable drinking water to all affected properties, the Commissioner may institute any proceeding or take any other action to require Respondent to undertake further investigation or further action to provide potable drinking water.
23. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
24. No assurance by Commissioner. No provision of this consent order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondent pursuant to this consent order will result in compliance or will successfully provide potable drinking water to all affected properties.
25. No effect on rights of other persons. This consent order shall neither create nor affect any rights of persons who or municipalities which are not parties to this consent order.
26. Notice to Commissioner of changes. Within fifteen days of the date Respondent becomes aware of a change in any information submitted to the Commissioner under this consent order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.
27. Submission of documents to DEP. Any document required to be submitted to the Commissioner under this consent order shall, unless otherwise specified in writing by the Commissioner, be directed to:

D. James Fitting
Department of Environmental Protection
Water Management Bureau/PERD
79 Elm Street
Hartford, Connecticut 06106-5127

And

John England
Department of Environmental Protection
Waste Management Bureau/WEED
79 Elm Street
Hartford, Connecticut 06106-5127

And

Martin Berliner
Town Manager
Audrey P. Beck Building
Four South Eagleville Road
Mansfield, CT 06268-2599

28. Indemnification and/or contribution. Nothing in this consent order shall preclude Respondent from pursuing such rights of indemnification and/or contribution as it may have against any parties whatsoever.

University of Connecticut

BY: Mark A. Emmert
Mark A. Emmert
Chancellor and Provost for University Affairs

June 26, 1998
Date

Issued as a final order of the Commissioner of Environmental Protection on
June 26, 1998.

Arthur J. Rocque Jr.
Commissioner

ORDER NO. SRD-101
DEP/WCU _____
TOWN OF MANSFIELD
DISCHARGE CODE _____